

### **REMARKS**

This Amendment is in response to the Office Action mailed October 17, 2007. In the Office Action, claims 1-26 were rejected under 35 U.S.C. § 102, and claims 27-38 were rejected under 35 U.S.C. §103.

Claim 10 was objected, but as the Examiner has stated, claim 10 is pending. Hence, no amendment is required.

Claim 1 has been amended to include the limitation from dependent claim 4 in order to place the claim into condition for appeal if an appeal is necessary. Claim 4 has been cancelled without prejudice.

Claim 21 has been amended to include the limitations for dependent claims 22 and 23 in order to place the claim into condition for appeal if an appeal is necessary. Claims 22 and 23 have been cancelled without prejudice.

Claim 27 has been amended to include the limitations for dependent claims 28-30 in order to place the claim into condition for appeal if an appeal is necessary. Claims 28-30 have been cancelled without prejudice.

Claims 31-38 have been cancelled without prejudice in order to simplify the issues on appeal.

### ***Request for a Telephone Conference***

Applicants respectfully request that the Examiner contact the attorney identified below to coordinate a telephone conference if the pending claims are still not considered to be allowable by the Examiner. The telephone conference would greatly facilitate the prosecution of the subject application.

### ***Rejection Under 35 U.S.C. §102***

Claims 1-26 were rejected under 35 U.S.C. § 102(b) as being anticipated by Wasilewski (U.S. Patent No. 6,157,719). Applicant respectfully traverses the rejection because a *prima facie* case of anticipation has not been established.

As the Examiner is aware, to anticipate a claim, the reference must teach every element of the claim. "A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference." *Vergegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987). "The identical invention must be shown in as complete detail as is contained in the...claim." *Richardson v. Suzuki Motor Co.*, 868 F.2d 1226, 1236, 9 USPQ2d 1913, 1920 (Fed. Cir. 1989). Herein, all of the claim limitations are not found in Wasilewski.

For instance, with respect to claim 4, Applicant respectfully submits that the NVA storage 1303 of Wasilewski should not be construed as the mating key lookup table. As claimed, the mating key lookup table comprises (i) a first group of entries forming a range of mating key generators for digital devices supplied by each supplier of a plurality of suppliers including the supplier, and (ii) a second group of entries corresponding to the first group of entries, each entry of the second group of entries including at least one mating key uniquely corresponding to and partially formed by one of the mating key generators. In fact, the Examiner has now interpreted the “mating key generator” as yet another element, the DHCT/digital device as set forth on page 6 of the Office Action. As repeatedly stated, the mating key generator is a specific message construction as explicitly claimed that is used to form the mating key, and clearly, DHCT/digital device of Wasilewski are not mating key generator messages and are not used to form mating keys.

With respect to claims 2-3 and 5-10, Applicant respectfully traverses the rejection, but since these claims are dependent on claim 1, believed by Applicant to be in condition for allowance, no further discussion as to the grounds for traverse is warranted. Applicant reserves the right to present such arguments in an Appeal is warranted. Withdrawal of the §102 rejection as applied to claims 2-3 and 5-10 is respectfully requested.

With respect to independent claim 12, Applicant respectfully traverses the rejection and submits that the NVA storage 1303 does not constitute the non-volatile storage unit as claimed. Herein, Applicant has amended claim 12 to include the limitations of dependent claim 14 and to further include limitations that explicitly recite that the mating key is formed using at least a portion of the mating key generator with the “mating key generator” being “a message that comprises an identifier of the manufacturer of the digital device.” Again, the Examiner has mistakenly relied on an improper claim interpretation for the “mating key generator,” which is considered by the Examiner to be the DHCT/digital device. See Page 6 of the Office Action.

Hence, Wasilewski does not teach each and every limitation set forth in claim 12, and thus, the outstanding §102(b) rejection should be withdrawn.

With respect to claims 13 and 15-20, Applicant respectfully traverses the rejection, but since these claims are dependent on claim 12, believed by Applicant to be in condition for allowance, no further discussion as to the grounds for traverse is warranted. Applicant reserves the right to present such arguments in an Appeal is warranted. Withdrawal of the §102 rejection as applied to claims 13 and 15-20 is respectfully requested.

With respect to independent claim 21, Applicant respectfully traverses the rejection and submits that the secure content delivery system as claimed are not taught by (or even rendered obviousness by) Wasilewski. Herein, Applicant has amended claim 21 to include the limitations of claims 22-23 where the “information” comprises a mating key generator *being a message that comprises an identifier of a supplier of one of the digital devices* and the *mating key generator undergoing a hash operation to produce the requested mating key*. Emphasis added. Applicant respectfully requests the Examiner to reconsider the allowability of these claims based on these amendments.

With respect to claims 24-26, Applicant has amended these claims to now depend on independent claim 21, which is believed by Applicant to be in condition for allowance. Hence, no further discussion as to the grounds for traverse is warranted. Applicant reserves the right to present such arguments in an Appeal is warranted. Withdrawal of the §102 rejection as applied to claims 21 and 24-26 is respectfully requested.

Hence, Applicant respectfully requests the Examiner to withdraw the outstanding §102 as applied to claims 1-26.

### ***Rejection Under 35 U.S.C. § 103***

Claims 27, 28, 30 and 32-34 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Wasilewski in view of Turner (U.S. Patent No. 6,707,696). Applicant respectfully traverses the rejection because a *prima facie* case of obviousness has not been established.

As the Examiner is aware, to establish a *prima facie* case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify a reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all of the claim limitations. *See MPEP §2143; see also In Re Fine, 873 F. 2d 1071, 5 U.S.P.Q.2D 1596 (Fed. Cir. 1988)*. Herein, the combined teachings of the cited references fail to describe or suggest all of the claim limitations.

For instance, with respect to independent claim 27, the Office Action recites that Wasilewski fails to teach “receiving a serial number being used to locate an one-time programmable value,” “computing a mating key by performing a computation on the mating key generator and the one-time programmable value to produce the mating key,” and “outputting the mating key based on the mating key generator being a message including at least one of (i) a first identifier to identify a manufacturer of the digital device, (ii) a service provider identifier, (iii) a conditional access provider identifier, and (iv) a mating key sequence number....” Applicant agrees with the lack of teaching within Wasilewski and Turner, but we disagree with the Examiner’s position that column 8, lines 18-31 and column 9, lines 12-20 of Smeets teaches computation of the mating key as claimed.

Rather, Applicant respectfully submits that Smeet describes the storage of an established session key within a one-time programmable (OTP) part of flash program memory (104) to protect against a passive attacker. As the Examiner is aware, session keys are intermediary keys created for a particular session and are usually symmetric keys computed from random values and would not be computed by a computation being performed on a mating key generator (a message) and a one-time programmable value.

***Conclusion***

Applicant reserves all rights with respect to the applicability of the doctrine of equivalents. Applicant respectfully requests that a timely Notice of Allowance be issued in this case.

Respectfully submitted,

BLAKELY, SOKOLOFF, TAYLOR & ZAFMAN LLP

Dated: January 17, 2008

By

  
William W. Schaal

Reg. No. 39,018

Tel.: (714) 557-3800 (Pacific Coast)

1279 Oakmead Parkway  
Sunnyvale, CA 94085-4040